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|--------------------------------|-------------|----------------------|-----------------------|------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/722,914 | 11/26/2003 | Israel Raz | 132076UL (12553-1020) | 1899 |
| 45436 | 7590 | 01/16/2009 | EXAMINER | |
| DEAN D. SMALL | | | MARTINEZ, DAVID E | |
| THE SMALL PATENT LAW GROUP LLP | | | | |
| 225 S. MERAMEC, STE. 725T | | | ART UNIT | PAPER NUMBER |
| ST. LOUIS, MO 63105 | | | 2181 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

| | | |
|------------------------|---------------------|--|
| Application No. | Applicant(s) | |
| 10/722,914 | RAZ, ISRAEL | |
| Examiner | Art Unit | |
| DAVID E. MARTINEZ | 2181 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires ____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-21

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 See Continuation Sheet

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. Other: _____

/Niketa I. Patel/
 Primary Examiner, Art Unit 2181

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 12/24/08 have been fully considered but they are not persuasive.

In response to Applicant's arguments in remarks page 9 first paragraph, the Examiner notes that AAPA is being relied upon to teach "storing the data object in a first memory if the peripheral device is not accessible, not active, and not available to accept the data object." AAPA is not relied upon to teach storing data in a second memory. AAPA [paragraph 3] discloses that within portable devices (medical devices), "built-in removable media, which is used to transfer data from the ultrasound imaging system to the peripheral devices, usually is not included". It is this built-in removable media (a first memory) that stores data within the medical device that since it's removable, it is used at a later time to transfer said stored data (with the media being removed from the medical device) to a peripheral device when said peripheral device is accessible, available or active.

In response to Applicant's arguments in remarks page 9 second paragraph, the Examiner notes that Nakagiri is being relied upon to teach "storing a data object in a second memory to be output to a peripheral device, wherein the second memory is not a component of the peripheral device." Nakagiri is not relied upon to teach "if the peripheral device is accessible and available, and storing the data object in a different (first) memory if the peripheral device is not accessible and not available", it is AAPA that is used to disclose said limitation as shown above. Applicant is correct in concluding that Nagakiri [figs 1-3, paragraph 65] teaches "a RAM 102 for outputting data related to a print process to a printer" which is the equivalent of "storing a data object in a second memory (RAM 102) to be output to a peripheral device (a printer), wherein the second memory (RAM 102 is found inside a host) is not a component of the peripheral device (a printer)." In response to Applicant's argument in remarks pages 9 (last paragraph) to page 10, RAM 102 is by definition a volatile memory that only holds data temporarily, whereas the built-in removable media of AAPA is a non-volatile memory and holds data for a longer time RAM does. Also, RAM 102 is used to hold data for its execution and the built-in removable media is being used to store/save data later use when detached and has no power to it (long term storage). These differences constitute them as being a second memory and a first memory respectively. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "there is nothing in either AAPA or Nakagiri that describes storing the data object in the built-in media, instead of the RAM 102, if the peripheral device is not accessible and not available to accept the data object") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's arguments in remarks page 10, second paragraph, the fact that RAM 102 is a volatile memory and the built-in removable memory is non-volatile as explained above teaches how by their own characteristics the built-in removable memory stores data for longer than RAM memory 102. If the combined system was to shut off, the data in RAM will be cleared whereas the data in the built-in memory is stored for later used or for external transfer.

It is for the above reasons that the claims stand rejected..